

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTONIO CUEVAS,

Petitioner,

v.

**RICK THALER, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

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Civil Action No. **3:09-CV-756-L**

ORDER


Before the court is Antonio Cuevas's Petition for Writ of Habeas Corpus, filed April 24, 2009. The case was referred to Magistrate Judge Wm. F. Sanderson, Jr., who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") on November 4, 2009. Petitioner filed no objections to the Report.

This is a habeas petition filed pursuant to 28 U.S.C. § 2254. Petitioner was convicted of robbery after a jury trial in state court and is presently incarcerated in the Hutchins State Jail Unit of the Texas Department of Criminal Justice, Correctional Institutions Division at Dallas, Texas. Petitioner asserts eight grounds for relief in his petition, raising the following claims: (1) denial of his right to be present during a portion of the jury venire examination; (2) violation of the Double Jeopardy Clause of the Fifth Amendment; (3) insufficiency of the evidence to support the jury's guilty verdict; (4) illegal search and seizure under the Fourth Amendment; (5) ineffective assistance of counsel; (6) misleading the jury in the punishment phase; (7) non-compliance by the state court with the requirements of article 11.07; and (8) objectionable statements by the trial court to the jury regarding state parole law. The magistrate judge addressed each of these grounds in a lengthy

analysis and ultimately determined that all eight grounds were either without merit or barred by well-settled federal law. The magistrate judge accordingly recommends that the petition be denied and this action be dismissed.

After having reviewed the petition, filings, record, Report, and applicable law in this case, the court determines that the magistrate judge's findings and conclusions are correct. They are therefore **accepted** as those of the court. The court **denies** the petition and **dismisses with prejudice** this action. The court will issue a final judgment by separate document.

It is so ordered this 19th day of November, 2009.


Sam A. Lindsay
United States District Judge